

September 23, 2021

**VIA ECF**

The Honorable André M. Espinosa  
United States Magistrate Judge  
District of New Jersey

Re: *United States of America v. Frank Giraldi*  
2:20-cv-02830-SDW-AME (D.N.J.)

Dear Judge Espinosa:

Pursuant to the Court's order at Docket No. 33, the parties jointly write to itemize the issues, including settlement, to be discussed at the upcoming conference call scheduled for September 27, 2021 at 2:30 p.m.

Since the last settlement conference on September 1, 2021, the parties have continued to confer regarding settlement as directed by the Court. Mr. Giraldi's recent offer is now under consideration by the United States.

Counsel to the United States views the issues that should be discussed at the upcoming conference call to be whether an additional settlement conference is necessary, how long the remaining discovery period should be if one is necessary, or whether the parties may submit motions for summary judgment on the remaining issue of whether Mr. Giraldi qualifies for the reasonable cause defense under 31 U.S.C. § 5321(a)(5)(b)(ii).

Counsel for Mr. Giraldi requests that, if the case is not settled prior to the scheduled September 27 call, that a date be set for another settlement conference. As discussed with the Court at the last settlement conference, Mr. Giraldi requests that he be excused from attending and agrees to be available by phone if and when needed. Mr. Giraldi further believes that all other issues can and should be tabled until the parties determine if the matter can be settled.

Sincerely yours,

/s/ Alexander R. Kalyniuk  
Alexander R. Kalyniuk  
Counsel to the United States

/s/ Mark Oberstaedt  
Mark Oberstaedt  
Counsel to Mr. Giraldi

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